

SPECIAL CIVIL APPLICATION No 8733 of 2000

Hon'ble MR.JUSTICE H.K.RATHOD

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of an

Rule. Service of rule is waived by Ms. Manisha Lavkumar, learned AGP appearing for the respondent authorities. On the facts and in the circumstances of

the case, the matter is taken up for final hearing today itself.

Heard Ms. Supehia, the learned advocate for the petitioner and Ms. Manisha Lavkumar, learned AGP for the respondent authorities.

The petitioner herein is serving as a Ist Grade Head Constable in SRP Group No.9 at Vadodara. He was appointed as police constable on 1.6.1969. In the year 1980, he was sent on one step promotion on deputation to the Police Training College, Junagadh. While working at Junagadh, he was given promotion as IInd Grade and then First Grade Promotions in the year 1983 and 1991. By order dtd 2.4.1992, his pay fixation was made in the post of Ist Grade Head Constable. By order dated 8.2.1991, the petitioner came to be repatriated to SRP Group No.9. By impugned order dtd 25/27.7.2000, the respondent has unilaterally cancelled the order dated 2.4.1992 and have ordered recovery of the amount after re-fixing his pay as if he did not enjoyed one step promotion. Hence the petitioner has filed this petition.

Learned advocate Mr. Supehia appearing for the petitioner has submitted that these orders of cancellation of the earlier order dtd 2.4.1992 has been passed against the petitioner without affording any opportunity of hearing to the petitioner. He has submitted that the order is having civil consequences against the petitioner and, therefore, the respondents ought to have afforded reasonable opportunity to the petitioner before passing such order. He has specifically submitted that no opportunity whatsoever has been given to the petitioner.

Considering such submissions made by Mr. Supehia and also considering the submissions made by Ms. Manisha Lavkumar, learned AGP appearing for the respondent authorities, it is clear that before passing the impugned order dated 25/27.7.2000, the respondents have not heard the petitioner and have also not afforded any opportunity and, therefore, as per my view, this petition is required to be allowed on that ground alone without observing anything on merits of the matter. According to my opinion, it is the duty of the State authority to observe the principles of natural justice before passing any order adverse to the employee and which is having civil consequences. Therefore, in view of these facts, this petition is allowed. The impugned order annexure "C" dated 25/27.7.2000 is hereby quashed and set aside with a liberty to the respondents to pass appropriate orders in

accordance with law after hearing and also after giving reasonable opportunity to the petitioner. Rule is made absolute accordingly with no order as to costs.

Dt. 7.12.2000 (H.K. Rathod, J.)

Vyas